

JANE DOE, a minor who sues by and through her father and Next Friend,
JOHN DOE,

Plaintiff,

v.

PHILIP DEWAYNE PERKINS
and **ROBBY PARKER**,

Defendants.

COMPLAINT

COMES NOW, Plaintiff Jane Doe by and through her father and Next Friend, John Doe, and files her Complaint against Robby Parker, and Philip Dewayne Perkins, and, in support thereof, states as follows:

PARTIES

1. Plaintiff Jane Doe (hereinafter referred to at times as “Jane Doe” or “Plaintiff”) is a minor resident of Madison County, Alabama. At all times relevant, Jane Doe was a student at James Clemens High School located in Madison, Alabama. Jane Doe brings this action by and through her guardian and Next Friend, John Doe.

2. John Doe, as father and Next Friend of the minor child, Jane Doe, is an individual over the age of nineteen (19) and, at all times relevant hereto, was and is a resident citizen of Madison County, Alabama.

3. Defendant Robby Parker (hereinafter referred to at times as “Parker” or “Defendant”) is Superintendent of Madison City Schools and is an individual over the age of nineteen (19) and, at all times relevant hereto, is and was a resident citizen of Madison County, Alabama. Parker is being sued in his individual capacity.

4. Defendant Philip Dewayne Perkins (hereinafter referred to at times as “Perkins” or “Defendant”) is an educator and basketball coach at James Clemens High School and is an individual over the age of nineteen (19) and, at all times relevant hereto, is and was a resident citizen of Lawrence County, Tennessee. Perkins is being sued in his individual capacity.

JURISDICTION AND VENUE

5. This action is filed pursuant to 42 U.S.C. § 1983 seeking redress of injuries suffered by Plaintiff Jane Doe due to deprivation, under color of state law, of rights secured by the Fourteenth Amendment to the United States Constitution. This action also claims violations of Alabama state law. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3).

6. Pursuant to 28 U.S.C. § 1367(a), this Court has supplemental jurisdiction over the Alabama state law claims since these claims are so related to

the claims in the § 1983 civil rights action that they form part of the same case and controversy.

7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 and other applicable law because the cause of action arose in Madison County, Alabama, which is situated within the district and divisional boundaries of the Northern District of Alabama, Northeastern Division.

FACTS

8. Paragraphs 1 through 7 are incorporated herein as if set out in full.

9. In 2009, Perkins was hired to teach seventh grade at Discovery Middle School, governed by the Madison City School Board of Education. Perkins transferred to James Clemens High School, also governed by the Madison City Board of Education, when it opened in 2012.

10. At all times relevant hereto, Plaintiff Jane Doe was a student at James Clemens High School in Madison, Alabama, which is a school within the authority, control and jurisdiction of the Madison City Public School System and/or the Madison City Schools Board of Education.

11. Doe was fourteen (14) years old at the time of the first incidents which are the subject of this Complaint.

12. Jane Doe was accepted on the girls' junior varsity ("JV") basketball team at James Clemens in May 2017 in preparation for her freshman year there. Doe began practicing with the JV team in June 2017.

13. In August 2017, Doe began her freshman (ninth grade) year at James Clemens. She turned fourteen (14) years old that month.

14. Defendant Philip Dewayne Perkins acted as both Doe's basketball coach and her history teacher during Plaintiff's freshman year.

15. From nearly their first contact, Perkins went out of his way to single-out and harass Doe both in practice and in the classroom. Perkins deliberately called out Doe in class in order to embarrass her in front of her classmates.

16. Perkins also worked to turn Doe's teammates against her. If Doe made a mistake on a play, Perkins punished the entire team with speed-running drills. No other player was subjected to this sort of punishment.

17. At various points in the semester, Perkins commented to Doe that she was "not allowed to talk to any boys," that she was "[his] and no one else's," and that she was "not allowed to sit with any boys." During one incident, Perkins directed Doe to move away from two male classmates that she and two other teammates were socializing with on the gym bleachers. Perkins made Doe sit next to him while allowing her two female teammates to remain with the boys.

18. In or around October 2017, Perkins asked Doe to come with him into the locker rooms after practice. He told her that he wanted to go over plays with her. Doe asked him to show her the plays in the gym, where they were standing, and that she did not want to go to the locker room with him. Perkins quickly got angry with Doe and commented, “Fine, then I’m just not going to show you,” before walking away.

19. On several occasions, Perkins touched Doe on the buttocks.

20. During practice, Perkins often played with the students, guarding the net. When Doe was playing offense during practices, Perkins always would choose to guard her and used his arm to brush up against her breasts. Perkins touched Doe’s breasts almost every practice Doe attended. This was not an accident, this was intentional.

21. Because of Perkins’ unwanted sexual touching and infatuation, Doe was miserable both in and out of the classroom. Her grades slipped and her parents noticed a significant difference in their normally bright and happy daughter. Doe was often angry and defiant, and seemed withdrawn from her loved ones. She resorted to telling her parents basketball practice had been canceled in order to avoid being around Perkins and him touching her.

22. On January 30, 2018, after a game against Columbia High School, Perkins called Doe out into the hallway alone outside of the locker room to

supposedly talk to her about why she wanted to quit the team. Perkins told Doe that he was “harder” on her than other players because he looked at her “differently,” and saw her more as a friend than as a player. Distressed and frightened, Doe began crying and turned to go back into the locker room. As she turned, Perkins reached out and grabbed Doe’s butt. Doe ran into the locker room, quickly changed, and went straight to her family and collapsed sobbing into her mother’s arms.

23. Doe’s family was aware that she hated Perkins, but Doe found it impossible to explain the abuse she was suffering. Because they didn’t know what abuse Doe was being subjected to by Perkins, her family encouraged her to finish the season. Doe played the last game on February 2, 2018.

24. After the season was over, Doe went to the varsity coach, a female teacher, and told her that she was quitting because she hated Perkins. The female teacher made no further inquiry of Doe or ask what trouble she had with Perkins.

25. Doe’s lingering psychological damage from the past assaults took such a toll on her mental health that she began to feel suicidal. When Doe threatened suicide in June 2018, her parents took her to Decatur General Hospital, and she was soon transferred to inpatient care at Mountain View Hospital. There, she finally told a counselor about the abuse and harassment she had been suffering from Perkins.

26. As a result of her statements to the counselor, Mountain View Hospital contacted the Madison County Department of Human Resources, who directed Doe and her family to the Children's Advocacy Center ("the CAC"). Doe was interviewed about her experiences, and the CAC believed that Perkins's actions constituted a criminal offense. The information was then given to Detective Marcus Adams with the Madison City Police Department. Detective Adams contacted John Doe, Jane Doe's father and Next Friend, and told Mr. Doe not to contact Superintendent Robby Parker until Detective Adams had spoken with him first.

27. The CAC also set up Jane Doe to begin attending weekly counseling sessions. Doe attended sessions from July 2018 until October 2018.

28. John Doe and his wife did research into Perkins and discovered that two criminal warrants that had been pending when Perkins was originally hired by Madison City Schools. John Doe had found that in late 2008 and early 2009, two warrants were issued for Perkins's arrest, both for domestic violence against women in the third degree. However, both were ultimately dropped after Perkins completed classes for perpetrators of domestic violence.

29. Detective Adams spoke to Parker regarding the criminal allegations against Perkins in June 2018. Parker told John Doe that Madison City Schools would conduct its own investigation into Perkins. In August 2018, Parker placed Perkins

on indefinite administrative leave while the Madison City Police completed their investigation.

30. John Doe was told that the Madison City Police were unable to reach Perkins because he did not have an updated phone number on file, and as such the Madison City Police completed their investigation without ever speaking to Perkins.

31. In July 2018, John Doe and his wife withdrew Jane Doe from James Clemens and enrolled her in [REDACTED] in Huntsville,

32. On or around October 4, 2018, John Doe and his wife met with Parker, John Jones, the personnel director, and Woody Sanderson, the attorney for Madison City Schools. Parker opened the meeting by stating that Madison City Schools had completed its investigation and had not found any evidence to support Jane Doe's allegations against Perkins, and as such Perkins was going to be reinstated in the classroom. In or around late October 2018, Perkins was placed back in James Clemens as a history teacher, once again allowing him access to minor female students.

33. Approximately two weeks after being reinstated, Perkins was again placed on leave due to inappropriate behavior with another female student, Martha Doe. When John Doe contacted Parker about the incident with Martha Doe, Parker told Mr. Doe it was none of his business, going so far as to joke about the situation.

34. After a few weeks of administrative leave, Perkins was allowed to return to James Clemens to teach online courses only, though he still visited the school to administer testing in person. He also had extensive online interaction with students.

35. Because Defendant Parker returned Perkins to the classroom, even after multiple, credible allegations of offensive touching of underage girls, the Plaintiff was unable to return to James Clemens High School and continue her basketball career.

36. Hence, Perkins's abuse continues to negatively affect Jane Doe. [REDACTED] was at full capacity for sophomore students, and Doe was forced to repeat her freshman year. Due to strict rules regarding eligibility for high school students, Doe will most likely be ineligible to play basketball during her senior year, effectively ruining any hope she may have had of playing in college.

37. Perkins deliberately isolated, harassed, and sexually abused Jane Doe for nearly a year. This abuse caused her emotional and mental anguish, some of which is still ongoing. Due to her transfer to [REDACTED] and repeat of her freshman year, Perkins effectively stole a year of Doe's life, and may have successfully prevented her from pursuing any hopes of playing college sports.

38. Defendant Robby Parker negligently retained Defendant Perkins as an educator with Madison City Schools when he was aware of or should have been

aware of the criminal domestic violence charges pending against Perkins at the time he was hired.

39. Defendant Robby Parker negligently failed to properly train and supervise Defendant Perkins in his role as an educator and coach with Madison City Schools.

40. Defendant Robby Parker, negligently failed to terminate Defendant Perkins upon notice of his abuse and assault of a student, leading to the further harassment of a second student.

CAUSES OF ACTION

COUNT I

42 U.S.C. § 1983

[Violation of 14th Amendment, Due Process, Equal Protection, 42 U.S.C. § 1983] Defendants Parker and Perkins

41. Paragraphs 1 through 40 are incorporated herein as if set out in full.

42. The abuse, harassment and intimidation toward Plaintiff Jane Doe occurred on school property and while she was under the authority and control of Defendants Parker and Perkins.

43. Defendant Parker, in his individual capacity, violated Plaintiff Jane Doe's rights under 42 U.S.C. § 1983 and her Fourteenth Amendment Equal Protection rights by failing to protect her from harassment, intimidation and assault by Perkins at James Clemens High School.

44. Defendant Parker, in his individual capacity, violated Plaintiff Jane Doe's rights under 42 U.S.C. § 1983 and her Fourteenth Amendment Equal Protection and Due Process rights by failing to thoroughly investigate her claim that Perkins had sexually assaulted her, bringing Perkins back into the classroom to sexually assault others after Parker had actual notice of Perkins's behavior, and by failing to do anything in response to Plaintiff's claim of sexual assault.

45. Defendant Perkins, acting under color of state law and using his authority as Jane Doe's history teacher and basketball coach, sexually assaulted her in violation of her constitutional right to bodily integrity. As a proximate consequence thereof, Plaintiff has been damaged, as she has been caused to suffer physical injury, severe emotional distress, anguish, embarrassment, humiliation, anxiety, frustration, stress, trauma and concern.

46. Plaintiff is entitled to an award of compensatory damages against Defendants Parker and Perkins and each of them collectively or separately and severally, in their official capacities, and an award of compensatory and punitive damages against them in their individual capacities.

WHEREFORE, Plaintiff demands judgment against Defendants in a sum in excess of the jurisdictional limits of this Court, to be determined by a jury, which will fairly and adequately compensate Plaintiff for her injuries and damages, together with interest from the date of injury, and the costs of this proceeding.

Further, Plaintiff requests that the jury selected to hear this case render a verdict for Plaintiff and against each Defendant named or identified herein and that it award punitive damages to Plaintiff in an amount which will adequately reflect the enormity of the Defendants' wrongful acts and which will effectively prevent other similar wrongful acts.

COUNT II
Assault
Defendant Perkins

47. Paragraphs 1 through 40 are incorporated herein as if set out in full.

48. Defendant Philip Perkins, while acting in the line and scope of his duties as a teacher and coach at James Clemens High School, assaulted Plaintiff by causing offensive and unwanted contact and thereby committed a "trespass to person" as the phrase is used in ALA. CODE § 6-2-34(1).

49. As a direct and proximate result of the unreasonable and illegal actions of Perkins, Plaintiff has suffered physical and mental anguish and severe emotional distress.

WHEREFORE, the above premises considered, prays that judgement be entered against Defendant Philip Perkins for compensatory and punitive damages, costs of this action, interest and other such legal and equitable relief as this Court deems necessary and proper.

COUNT III
Invasion of Privacy
Defendant Perkins

50. Paragraphs 1 through 40 are incorporated herein as if set out in full

51. Defendant Philip Perkins, while acting in the line and scope of his duties as a teacher and coach at James Clemens High School, invaded Plaintiff's privacy by causing multiple physical intrusions on her person.

52. Perkins wrongfully pried or intruded into Plaintiff's private activities, affairs, and seclusion.

53. The nature of the intrusions referred to herein was so outrageous as to cause mental suffering, shame, and/or humiliation to a person of ordinary sensibilities.

54. As a direct and proximate result of the unreasonable and illegal actions by Perkins, Plaintiff has suffered from physical and mental anguish and severe emotional distress.

WHEREFORE, the above premises considered, Plaintiff prays that judgement be entered against Defendant Philip Perkins for compensatory and punitive damages, costs of this action, interest, and other such legal and equitable relief as this Court deems necessary and proper.

COUNT IV
Negligence
Defendant Perkins

55. Paragraphs 1 through 40 are incorporated herein as if set out in full.

56. Defendant Philip Perkins owed a duty to Plaintiff to treat her with respect, accord, and consideration as to any person in a civilized society.

57. Perkins negligently breached this duty to Plaintiff and as a consequence, caused Plaintiff harm.

58. As a direct and proximate result of Perkins's negligence, Plaintiff has suffered severe mental anguish which was, perhaps, an unintended consequence of Perkins's negligent actions.

WHEREFORE, the above premises considered, Plaintiff prays that judgement be entered against Defendant Philip Perkins for compensatory, costs of this action, interest, and other such legal and equitable relief as this Court deems reasonable and proper.

COUNT V
Recklessness/Wantonness
Defendant Perkins

59. Paragraphs 1 through 40 are incorporated herein as if set out in full.

60. Defendant Philip Perkins owed a duty to Plaintiff to treat her with respect, accord, and consideration as to any person in a civilized society.

61. Perkins recklessly and/or wantonly breached this duty to Plaintiff and as a consequence, caused Plaintiff harm.

62. As a direct and proximate result of Perkins's reckless and/or wanton conduct, Plaintiff has suffered severe mental anguish.

WHEREFORE, the above premises considered, Plaintiff prays that judgement be entered against Defendant Philip Perkins for compensatory and punitive damages, costs of this action, interest, and other such legal and equitable relief as this Court deems reasonable and proper.

Count VI
Negligent/Reckless/Wanton
Retention and Supervision
Defendant Parker

63. Paragraphs 1 through 40 are incorporated herein as if set out in full.

64. Standing *in loco parentis*, Defendant Parker owed a duty to all James Clemens High School students, including Plaintiff Jane Doe, to properly hire, train and supervise all staff at James Clemens High School.

65. Defendant Parker negligently, recklessly, and/or wantonly breached his duty to all students at James Clemens High School, including Plaintiff Jane Doe, to properly hire, train and supervise all staff at James Clemens High School when he failed to hire, train, and supervise sufficient staff to protect the students, including Plaintiff Jane Doe, from assault by a teacher and coach.

66. As a direct and proximate result of Defendant Parker's negligent, reckless and/or wanton breach of duty he owed to Plaintiff Jane Doe, Doe was assaulted and harassed by Defendant Perkins, which caused her personal injury and severe emotional distress.

WHEREFORE, Plaintiff demands judgment against Defendant Parker in a sum in excess of the jurisdictional limits of this Court, to be determined by a jury, which will fairly and adequately compensate Plaintiff for her injuries and damages, together with interest from the date of injury, and the costs of this proceeding. Further, Plaintiff requests that the jury selected to hear this case render a verdict for Plaintiff and against each Defendant named or identified herein and that it award punitive damages to Plaintiff in an amount which will adequately reflect the enormity of the Defendants' wrongful acts and which will effectively prevent other similar wrongful acts.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Jane Doe requests this Court enter an Order which will:

- A. Declare the conduct engaged in by the Defendants to be in violation of Plaintiff Jane Doe's rights under federal and Alabama law;
- B. Enter appropriate declaratory and injunctive relief;

- C. Award Plaintiff Jane Doe compensatory damages against the Defendants, in an amount that will fully compensate her for the physical injuries, severe emotional distress, and concern that she has suffered as a direct and/or proximate result of the statutory and common law violations as set out herein;
- D. Enter a judgment against all Defendants for such punitive damages as will properly punish them for the constitutional, statutory and common law violations perpetrated upon Plaintiff as alleged herein, in an amount that will serve as a deterrent to Defendants and others from engaging in similar conduct in the future;
- E. Award Plaintiff Jane Doe prejudgment and post-judgment interest at the highest rates allowed by law;
- F. Award Plaintiff Jane Doe costs, expert witness fees, and reasonable attorneys' fees;
- G. Assume continuing and indefinite jurisdiction to ensure compliance with the terms of the Orders requested herein; and,
- H. Award Plaintiff Jane Doe such other and further relief, including equitable, that this Court deems just and proper.

JURY DEMAND

Plaintiff demands trial by struck jury.

Respectfully submitted on this the 12th day of November 2019.

s/ Teri Ryder Mastando
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